

IN RE: PETITION FOR RESIDENTIAL VARIANCE BEFORE THE
915 Thompson Boulevard, 650' SE
of the c/l of Sandalwood Road
(926 Thompson Boulevard)
15th Election District
5th Councilmanic District
Henry J. Voelker, Jr., et ux
Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit a minimum side yard setback of 7.6 feet in lieu of the required 10 feet for a proposed dwelling reconstruction in accordance with Petitioner's Exhibit 1.

The Petitioners having filed a Petition for Residential Variance and the subject property having been posted and there being no requests for public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by Section 22-26 (b)(1) of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variances would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Zoning Commissioner, the information, pictures, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1, 307.2 and 500.14 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

The facts and evidence presented tend to establish that special conditions or circumstances exist which are peculiar to the land or structures located within the Chesapeake Bay Critical Areas of Baltimore County.

ty; that to deny the relief requested would result in practical difficulty, unreasonable hardship, or severe economic hardship upon the Petitioner; and that strict compliance with the Chesapeake Bay Critical Area requirements and the B.C.Z.R. would deprive the Petitioner of rights commonly enjoyed by other properties in similar areas within the Chesapeake Bay Critical Areas in Baltimore County. The granting of the relief requested will not confer upon the Petitioner any special privilege that would be denied by the critical area regulations to other lands or structures within the Chesapeake Bay Critical Areas. Clearly, the request is not based upon conditions or circumstances which are the result of the Petitioner's actions, nor does the request arise from a condition relating to land or building use, either permitted or non-conforming, on another property. The relief requested is in harmony with the general spirit and intent of the Critical Areas legislation for Baltimore County and conforms to the requirements as set forth in Section 500.14 of the B.C.Z.R.

In accordance with Section 500.14 of the B.C.Z.R., the Director of the Department of Environmental Protection and Resource Management has submitted recommendations which describe what steps the Petitioner must take to insure that the relief requested complies with the following Chesapeake Bay Critical Areas requirements to:

- 1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;
- 2) Conserve fish, wildlife, and plant habitat; and
- 3) Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

- 2 -

These recommendations shall be attached hereto and become a permanent part of the decision rendered in this case. There is no evidence in the record that the relief requested would adversely affect the health, safety, and/or general welfare of the public provided there is compliance with the requirements of the Department of Environmental Protection and Resource Management as more fully described below.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 15th day of February, 1991 that the Petition for Residential Variance to permit a minimum side yard setback of 7.6 feet in lieu of the required 10 feet for a proposed dwelling reconstruction, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) The relief granted herein is limited to the reconstruction of one single family dwelling on the subject property, in accordance with Petitioner's Exhibit 1. Petitioners shall not allow or cause the proposed improvements to be converted to a two-family dwelling or apartments.
- 3) Upon request and reasonable notice, Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

- 3 -

4) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petitioner shall comply fully and completely with all requirements and recommendations of the Department of Environmental Protection and Resource Management, as set forth in their comments dated February 4, 1991, attached hereto and made a part hereof.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs

- 4 -

PETITION FOR RESIDENTIAL VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plot attached hereto and made a part hereof, petition for a Variance from Section 1802.30.1 to permit a minimum side yard setback of 7' 6" in lieu of the required 10'.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reason(s) (indicate hardship or practical difficulty):
The existing house is now situated less than 10' from the east side of the property line. Our intention was to remodel the existing house to suit our needs. A permit to perform this remodeling was obtained, but because existing tree stumps were used as supports for the existing house, when the stumps were removed the foundation caved in. The house then became a danger, and a new and larger foundation was then needed. If variance is not granted a practical difficulty and unreasonable hardship will exist.

Property is to be advertised and/or posted as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of the above Variance posting and, if necessary, advertising, upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this petition.

Contract Purchaser:

(Type or Print Name)

Signature

Address

City/State/Zip Code

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

Attorney's telephone number

Legal Owner(s):

Henry John Voelker, Jr.

(Type or Print Name)

Signature

Gwynndolyn M. Voelker

(Type or Print Name)

Signature

Address

3707 Evergreen Avenue (301) 254-5591

City/State/Zip Code

Baltimore, MD 21206

City/State/Zip Code

Home, address and phone number of legal owner, contract purchaser or representative to be contacted.

Henry John Voelker, Jr.

Name

3707 Evergreen Avenue (301) 254-5591

Address

AFFIDAVIT

IN SUPPORT OF RESIDENTIAL ZONING VARIANCE

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows:

That the information herein given is within the personal knowledge of the Affiant(s) and Affiant(s) is/are competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/does presently or upon settlement will reside at _____

926 Thompson Blvd., Baltimore, MD 21221
(Address)

That based upon personal knowledge, the following are the facts upon which I/we have the request for a Residential Zoning Variance at the above address: (Indicate hardship or practical difficulty)

The existing house is now situated less than 10' from the east side of the property line. Our intention was to remodel the existing house to suit our needs. A permit to perform this remodeling was obtained, but because existing tree stumps were used as supports for the existing house, when the stumps were removed the foundation caved in. The house then became a danger, and a new and larger foundation was then needed. If variance is not granted a practical difficulty and unreasonable hardship will exist.

That Affiant(s) acknowledge(s) that if protest is filed, Affiant(s) will be required to pay a reporting and advertising fee and may be required to provide additional information.

Henry John Voelker, Jr.
AFFILIANT (Handwritten Signature)
Gwynndolyn M. Voelker
AFFILIANT (Handwritten Signature)

Henry John Voelker, Jr.

AFFILIANT (Printed Name)

Gwynndolyn M. Voelker

AFFILIANT (Printed Name)

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 20th day of December, 1990, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared Henry John Voelker Jr. & Gwynndolyn M. Voelker

the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s), and made oath in due form of law that the matters and facts hereinabove set forth are true and correct to the best of his/her/their knowledge and belief.

AS WITNESS my hand and Notarial Seal.

12-22-90

DATE

NOTARY PUBLIC

My Commission Expires: July 1, 1992

Property Description: Located on the south side of Thompson Blvd. approx. 650' south east of & of Sandalwood h.d. and running the following courses and distances:
S50°21'E 46.80' thence S 48°30'W 410' thence along the waters of Back River northwesterly 45' thence N48°13'E 395' to the place of beginning also known as 926 Thompson Blvd.

91-240-A
259

CRITICAL AREA

Baltimore County
Zoning Commissioner
County Office Building
111 West Chase Avenue
Towson, Maryland 21204

receipt

Amount: \$ 00.00

91-240-A

CRITICAL AREA

Date

Please Make Checks Payable To: Baltimore County 301-254-21-90

\$60.00

Cashier Validation

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

District: 10th Date of Posting: 1/1/91
Posted for: Henry John Voelker, Jr.
Petitioner: Henry John Voelker, Jr.
Location of property: 926 Thompson Blvd., 15th Election District
Location of Signs: Henry John Voelker, Jr., approx. 20' on the way on 926 Thompson Blvd.
Remarks: None
Posted by: Matthew Date of return: 1/1/91
Number of Signs: 1

CRITICAL AREA

ZONING COMMISSIONER OF BALTIMORE COUNTY

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



111 West Chesapeake Avenue
Towson, MD 21204

887-3353

February 15, 1991

Mr. & Mrs. Henry J. Voelker, Jr.
3707 Evergreen Avenue
Baltimore, Maryland 21206

RE: PETITION FOR RESIDENTIAL VARIANCE
S/S Thompson Boulevard, 650' SE of the c/l of Sandalwood Road
(926 Thompson Boulevard)
15th Election District - 5th Councilmanic District
Henry J. Voelker, Jr., et ux - Petitioners
Case No. 91-240-A

Dear Mr. & Mrs. Voelker:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Residential Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs

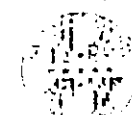
cc: Chesapeake Bay Critical Areas Commission
Tawes State Office Building, D-4, Annapolis, Md. 21404

DEPREM

People's Counsel

File

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



111 West Chesapeake Avenue
Towson, MD 21204

887-3353

December 31, 1990

Mr. & Mrs. Henry J. Voelker, Jr.
3707 Evergreen Avenue
Baltimore, MD 21206

RE: CASE NUMBER: 91-240-A
LOCATION: S/S Thompson Boulevard, 650' SE of centerline
Sandalwood Road
926 Thompson Road

Dear Petitioner:

Please be advised that your Petition for Residential Zoning Variance has been assigned the above case number. Any contact made to this office should reference the case number. This letter also serves as a refresher regarding the administrative process.

1) Your property will be posted on or before January 9, 1991. The last date (closing date) on which a neighbor may file a formal request for hearing is January 24, 1991. Should such request be filed, you will receive notification that the matter will not be handled through the administrative process. This will mean advertising of the public hearing and reposting of the property. The public hearing will be scheduled approximately 30 - 45 days from receipt of said notice. In either case, (a) receipt of notification that you will have a public hearing or, (b) the passing of the closing date, the sign and post can then be removed from the property and returned to this office. Failure to return the sign and post will cause your Order to be held and incur a \$50.00 charge. Please be advised that the Order will not be available for you to pick-up the day you return the sign.

2) Assuming no neighbor has requested a public hearing, the file now enters the final review stage of the administrative process. The Zoning Commissioner must now decide whether to grant or deny the request. He also has the option to request a public hearing.

3) PLEASE UNDERSTAND THAT ON THE DATE AFTER THE POSTING PERIOD, THE PROCESS IS NOT COMPLETE. THE FILE MUST GO THROUGH FINAL REVIEW AND THE DECISION MAKING PROCESS. WHEN THE ORDER IS READY IT WILL BE FORWARDED TO YOU VIA FIRST CLASS MAIL. ORDERS ARE NOT AVAILABLE FOR DISTRIBUTION PRIOR TO BEING MAILED TO YOU.

Very truly yours,

Gwen G. Stephens
Gwen G. Stephens
Docket Clerk

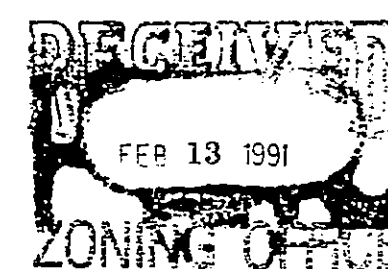
BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines
Zoning Commissioner

DATE: February 4, 1991

FROM: Mr. Donald C. Outen

SUBJECT: Petition for Zoning Variance - Item 259
Voelker Property
Chesapeake Bay Critical Area Findings



SITE LOCATION

The subject property is located at 926 Thompson Blvd., Baltimore, Maryland 21221. The site is within the Chesapeake Bay Critical Area and is classified as a Limited Development Area (LDA).

APPLICANT'S NAME Henry John Voelker, Jr.

APPLICANT PROPOSAL

The applicant has requested a variance from section 1802.3C.1 of the Baltimore County Zoning Regulations to permit "a minimum side yard setback of 7 feet, 6 inches in lieu of the required 10 feet".

GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
2. Conserve fish, wildlife and plant habitat; and
3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts." COMAR 14.15.10.01.D

Memo to Mr. J. Robert Haines
February 4, 1991
Page 2

REGULATIONS AND FINDINGS

1. Regulation: "A minimum 100 foot buffer shall be established landward from the mean high water line of tidal waters, tidal wetlands, and tributary streams" <Baltimore County Code Sec. 22-216(a)>.

Findings: The proposed dwelling will be located 125 feet from the mean high tide line of Back River and is therefore in compliance with the above regulation.

2. Regulation: "No dredging, filling, or construction in any wetland shall be permitted. Any wetland must be adequately protected from contamination" <Baltimore County Code Sec. 22-98>

Findings: No tidal or non-tidal wetlands were found on this site, or in the vicinity of the site.

3. Regulation: "If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland of at least 15% <COMAR 14.15.02.04 C.(5)>."

Findings: The owner has agreed to plant two new trees within the buffer. The existing vegetation in addition to the proposed trees will provide a 15% forested cover. Trees are an important factor in improving water quality. The roots of trees greatly improve the infiltration rate of storm water and efficiently remove nitrogen from sub-surface flows of groundwater. Trees also act as both a barrier and a sponge, blocking and absorbing eroding soils and the phosphorus associated with them.

4. Regulation: "The sum of all man-made impervious areas shall not exceed 15% of the lot" <COMAR 14.15.02.04 C.(7)>.

Findings: The sum of existing man-made impervious surfaces equals 20% of the lot. This consists of an existing house, patio, asphalt parking lot, shed, driveway, and sidewalk. The proposed dwelling would increase the impervious surfaces by 126 square feet. However, the applicant has agreed to remove the existing sidewalk so that no additional impervious surfaces will be added to the site.

Memo to Mr. J. Robert Haines
February 4, 1991
Page 3

5. Regulation: "The stormwater management system shall be designed so that:

(1) Development will not cause downstream property, watercourses, channels or conduits to receive stormwater runoff at a higher rate than would have resulted from a ten year frequency storm if the land had remained in its predevelopment state;

(2) Infiltration of water is maximized throughout the site, rather than directing flow to single discharge points; and

(3) Storm drain discharge points are decentralized to simulate the predevelopment hydrologic regime.

(4) There is sufficient storage capacity to achieve water quality goals of COMAR 14.15 and to eliminate all runoff caused by the development in excess of that which would have come from the site if it were in its predevelopment state" <Baltimore County Code, Section 22-217(h)>.

Findings: To comply with the above regulation, the owner has agreed to install infiltration devices at all downspouts. This will encourage maximum infiltration of stormwater and decrease the amount of runoff leaving the site.

CONCLUSION

The Zoning Variance shall be conditioned so the project proposal is in compliance with the Chesapeake Bay Critical Area Regulations and Findings listed above.

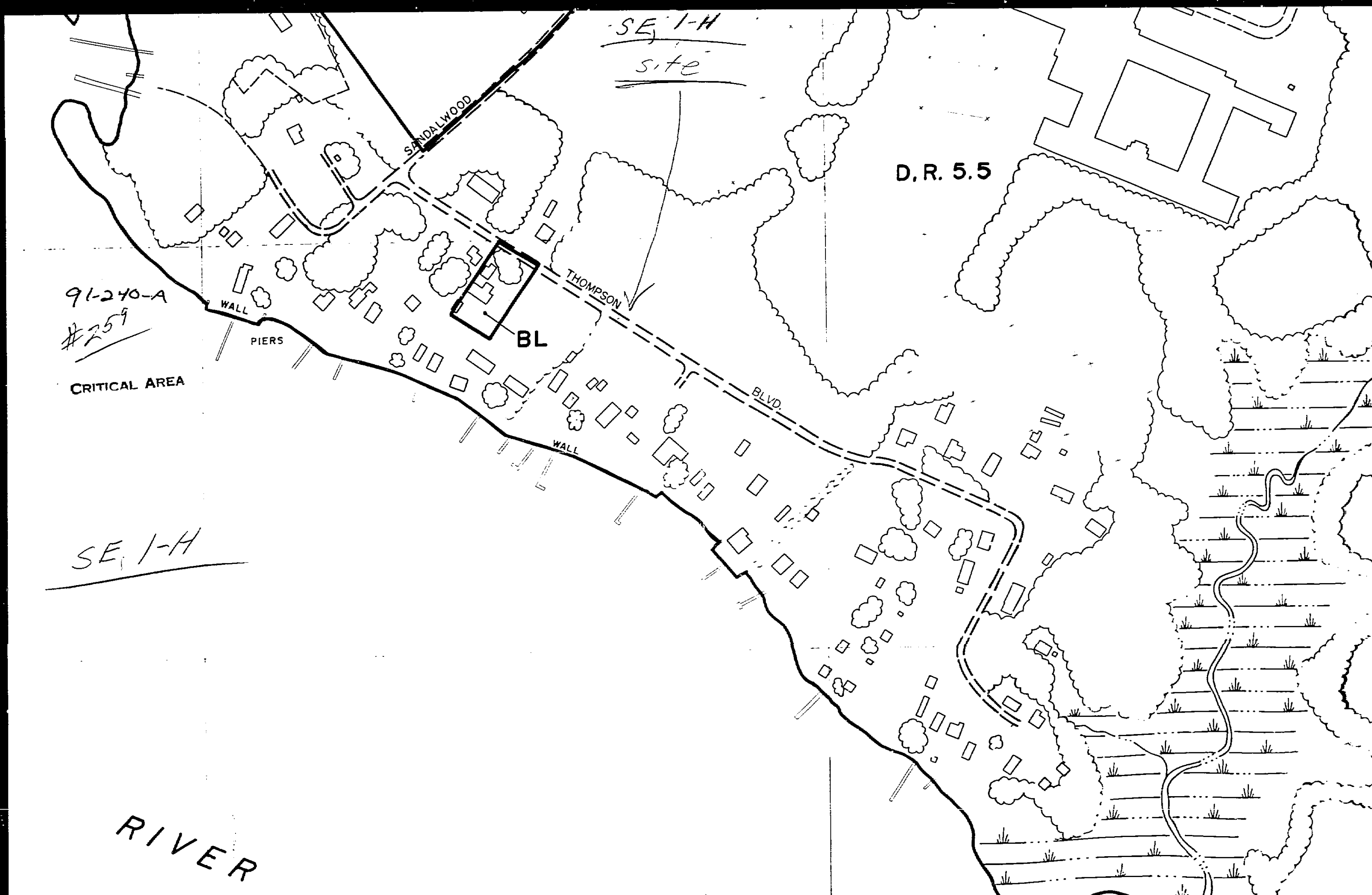
Upon compliance with Chesapeake Bay Critical Area Regulations, this project will be approved. If there are any questions, please contact Mr. David C. Flowers at 887-2304.

Donald C. Outen
Donald C. Outen, Acting Director
Department of Environmental Protection
and Resource Management

DCO:DCF:ju

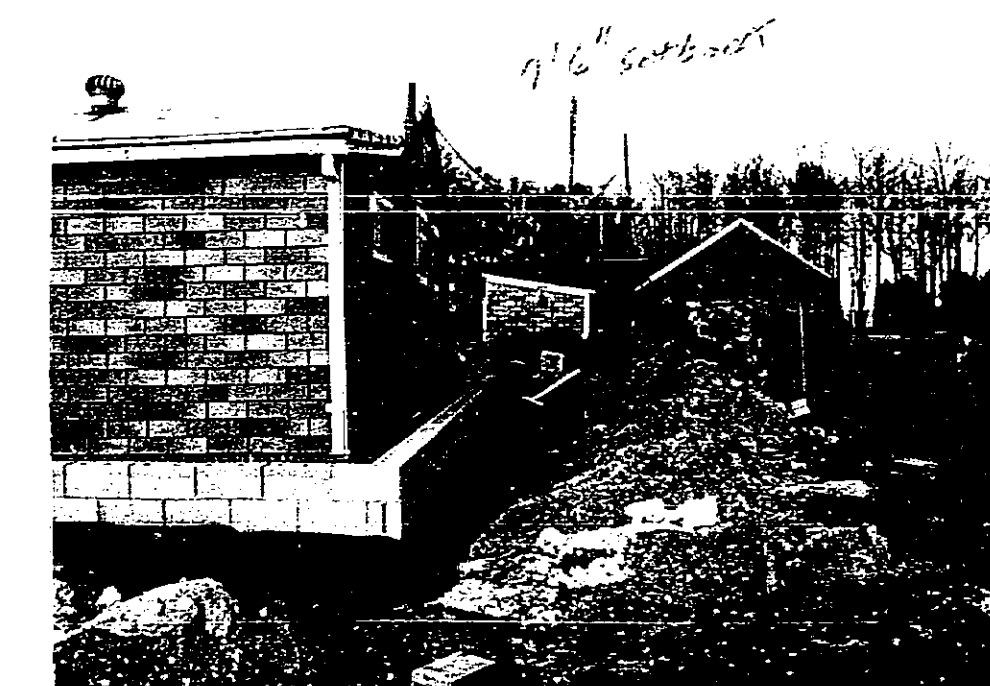
Attachment

cc: The Honorable Ronald B. Hickernell
The Honorable Vincent Gardina
The Honorable Donald Mason
Mrs. Janice B. Outen
Mr. Henry John Voelker, Jr.



CASE

91-240-A



PETITIONER'S EXHIBIT #2



BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP

PREPARED BY AIR PHOTOGRAPHICS, INC.
MARTINSBURG, W.V. 25401

SCALE
1" = 200'

DATE
OF
PHOTOGRAPHY
JANUARY
1986

LOCATION

BACK RIVER NECK

SHEET

S.E.
1-H

91-250-A
#259
CRITICAL AREA